

Serial No. 10/001,497

Page 3

Remarks

Claims 1-16 are pending. No amendments are presented with this Response.

Claims 1-16 remain pending.

Applicants request reconsideration and allowance of the above-referenced patent application in view of the following remarks.

As pointed out in the Interview, independent claim 1 recites a combination of material selection, product configuration, and physical state, requirements that provide a novel and nonobvious biscuit swirl product. More specifically, claim 1 recites:

A frozen unproofed, unbaked biscuit swirl capable of being baked without an intermediate thawing or proofing step comprising:

- a) a nonlaminated biscuit dough comprising flour, water, chemical leavening system, sugar and fat;
- b) a smear layer having a water activity that is compatible with said biscuit dough;

said biscuit dough being formed in a swirl with the smear layer located between adjacent portions of the biscuit dough, said biscuit swirl being in a frozen, unproofed state (emphasis added).

First, the product as described in claim 1 utilizes a unique material selection in the use of a nonlaminated biscuit dough in this category of product. As discussed in the interview, biscuit dough is a recognized material for use in certain environments, such as being served covered with gravy or being provided with a separate application of marmalade and the like. Biscuit dough is recognized in the art as being a very different material from conventional yeast doughs. See, for example, the excerpt from the McGee cooking text concurrently faxed with this Response, as requested by the Examiner, which has a separate section in the "Other Dough Products" portion of the "Bread, Doughs, and Batters" chapter of the text headlined "Biscuits." (See McGee, Harold, "On Food and Cooking, The Science and Lore of the Kitchen," pages viii and 320). The McGee text describes a distinguishing feature of a biscuit dough is that a "biscuit dough is mixed only enough to incorporate all the ingredients without developing the gluten too much" (See the McGee text at page 320, second full paragraph). Note that references cited in the Office Action also present biscuits as a separate product in the list of possible embodiments of the particular inventions described therein. It is respectfully submitted

Serial No. 10/001,497

Page 4

that the distinct nature of biscuit dough as compared to doughs that provide a bread-like product is readily apparent and understood by the skilled artisan.

Second, the product as described in claim 1 utilizes a unique product configuration as compared to prior art biscuits. Specifically, the claim requires that the biscuit dough is formed in a swirl with the smear layer located between adjacent portions of the biscuit dough. This swirl configuration is known for the formation of cinnamon rolls and the like when using bread-like doughs, but is novel and nonobvious when using biscuit dough. The present "biscuit swirl" is unique and patentable.

Finally, the product as described in claim 1 utilizes a unique physical state that imparts particular benefit to the consumer. Specifically, the "biscuit swirl" as claimed is provided in a frozen unproofed, unbaked state. The resulting biscuit swirl product provides particular benefit by its performance when baked without an intermediate thawing or proofing step. Surprisingly, a luxuriant roll may be prepared by directly taking the biscuit swirl from frozen conditions (e.g., frozen storage) and baking it without an intermediate proofing or thawing step.

It is respectfully submitted that the references cited in the Office Action do not, alone or in combination, provide motivation to select the combination of material selection, product configuration, and physical state components as required in the present claims, and do not teach or suggest the novel and nonobvious biscuit swirl product as described in the present application. Accordingly, Applicants request that the rejection of claims 1-16 as unpatentable under 35 U.S.C. §103 over Hahn et al. in view of Freyn et al. be withdrawn.

Serial No. 10/001,497

Page 5

In the event that a phone conference between the Examiner and the Applicants' undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact the attorney at (651) 275-9831.

Respectfully Submitted,

By:



Paul John Parins, Reg. No. 54,358



33072

PATENT TRADEMARK OFFICE

Phone: 651-275-9831

Facsimile: 651-351-2954

Dated: June 15, 2004

#13204